REMARKS/ARGUMENTS

The rejections presented in the Office Action dated April 17, 2006 (hereinafter Office Action) have been considered. Claims 1-33 remain pending in the application. Applicant acknowledges the allowability of Claims 20-33, and thanks the Examiner for favorable consideration of these claims. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Claims 1-19 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The Applicant respectfully traverses the rejection. Regarding Claim 1, the Examiner states that "Applicant is claiming, 'independently of the receipt of loss notification signals,' which is not described in the specification." The Applicant respectfully disagrees. First, the Applicant notes the standard for determining enablement is set forth in MPEP § 2164.01:

> Any analysis of whether a particular claim is supported by the disclosure in an application requires a determination of whether that disclosure, when filed, contained sufficient information regarding the subject matter of the claims as to enable one skilled in the pertinent art to make and use the claimed invention. The standard for determining whether the specification meets the enablement requirement was cast in the Supreme Court decision of *Mineral Separation v. Hyde*, 242 U.S. 261, 270 (1916) which postured the question: is the experimentation needed to practice the invention undue or unreasonable? That standard is still the one to be applied.

Applicant first notes that the Examiner has not shown or alleged that undue or unreasonable experimentation would be needed to verify non-congestion-based packet loss at a sending module independently of the receipt of loss notification signals at the sending module. Applicant respectfully submits that independent loss verification of non-congestion based packet loss can be practiced by one of ordinary skill in the art without undue or unreasonable experimentation based on the Specification as filed, and thus the Specification as originally filed is fully enabling of Claims 1-19.

First, the Applicant refers to page 9, lines 18-22 of the Specification, which states that:

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Because such [Explicit Loss Notification (ELN)] signals may be sent from any number of network elements in the network, they may be untrustworthy, and the signals provided to the TCP sender are used to 'advise' the TCP sender of the bit error packet loss condition. Using this advice, the TCP sender uses its own loss detection mechanism to confirm that certain packets have been lost.

The signals sent to the TCP sender (e.g., ELN signals) are one example of loss notification signals sent to the sender in response to identification of non-congestion packet loss. Because the "TCP sender uses its own loss detection mechanism to confirm that certain packets have been lost," it is inherent that the TCP sender's own loss detection verification is independent of the loss notification signals, because a confirmation mechanism is inherently independent of that which it is confirming. The Applicant also notes that page 12, lines 15-17 and page 14, line 28 to page 15, line 5 of the Specification also supports claim language that describes the sender's non-congestion based loss detection as being independent of loss notification signals.

Thus, Applicant submits that the Specification sufficiently describes verification of non-congestion packet based loss that is independent of the loss notification signals. Further, the Specification provides enabling descriptions of both loss notification signals and independent verifications at the sending node. Regarding the loss notification signals, page 11, lines 10-13 describes details of an exemplary Explicit Loss Notification (ELN) signal used to signal non-congestion based packet loss. Also see page 4, lines 18-24 of the Specification. Regarding the independent verification of non-congestion based loss, the Specification describes a number of example verification techniques using duplicate ACKS on page 11, line 17 to page 12, line 14 of the Specification. Also see page 16, line 21 to page 17, line 2 of the Specification. The Applicant also notes that ELN signals and duplicate ACKS are independent, non-congestion based, loss detection mechanisms, at least because they originate from independent sources. In particular, the ELN originates from a Loss Detection Node (LDN) (see p. 11, lines 10-12), and the duplicate ACKS originate from the TCP receiver (see p. 11, lines 20-22).

Based on at least the excerpts of the original Specification as discussed above, one skilled in the art would be able practice verifying non-congestion-based packet loss at a sending module independently of the receipt of loss notification signals at the sending

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module without undue or unreasonable experimentation. Accordingly, Applicant asserts that Claims 1-19 are supported by the Specification as originally filed, and thus comply with the provisions of 35 U.S.C. §112, first paragraph. Allowance of the application is therefore respectfully solicited.
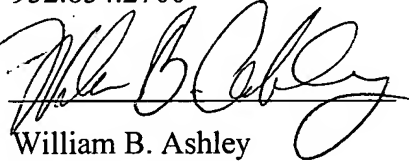
Authorization is given to charge Deposit Account No. 50-3581 (NOKM.046PA) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact him at to discuss any issues related to this case.

Respectfully submitted,

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